

.STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

**Deborah A. McHose,**  
Appellant,

**v.**

**Polk County Board of Review,**  
Appellee.

**ORDER**

**Docket No. 13-77-0150**  
**Parcel No. 090/04054-005-000**

On November 12, 2013, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Appellant Deborah A. McHose was self-represented and submitted evidence in support of her position. Assistant Polk County Attorney David Hibbard represented the Board of Review at hearing. The Appeal Board now having examined the entire record, heard the testimony, and being fully advised, finds:

***Findings of Fact***

Deborah A. McHose, owner of property located at 3100 Grand Avenue, Apartment 4A, Des Moines, Iowa, appeals from the Polk County Board of Review decision reassessing her property. According to the property record card, the subject property is a one-story, frame condominium built in 1970 with 1132 square feet of total living area. The dwelling has a balcony and a storage area. It is listed as good quality grade (3+00) and is listed in normal condition.

The real estate was classified as residential on the initial assessment of January 1, 2013, and valued at \$106,800, representing \$9500 in land value and \$97,300 in dwelling value.

McHose protested to the Board of Review on the ground that the property was assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2). Her petition to the

Board of Review sought an assessment of \$71,900. The Board of Review granted the petition, in part, and reduced the assessment to \$103,000, allocated \$9,500 in land value and \$93,500 in improvement value.

McHose then filed her appeal with this Board and claimed the same ground. She asserts the actual value of the property is \$71,900, allocated \$9,500 to land value and \$62,400 in dwelling value.

The evidence shows McHose purchased the property for \$71,900 in January 2013 in a normal, arm's-length transaction. (Exhibit A). According to the multiple listing service (MLS), the property was originally listed in May 2011 for \$125,900 and was periodically reduced. It was on the market 601 days before McHose's purchase. (Exhibit 6). According to the MLS sheet, the building has a common exercise room, swimming pool, community laundry, and underground parking is available.

McHose, a Coldwell Banker Realtor, was the appointed agent at the time of purchase and paid cash for the property. Thus, no appraisal was completed. McHose testified she has been a tenant in the building since 2011 and was well aware of the interiors of comparable condominiums. McHose reported that during the listing period seven other condominiums in the building came on the market and sold. Despite the MLS history indicating the property was in very good condition, McHose stated it had a stale odor, needed painting, the carpets were worn, tile flooring need to be replaced, the master toilet did not work, and there was no hot water service at the master sink. In her opinion, the layout and kitchen were functionally obsolete. She also reported electrical fixtures needed to be brought up to code. McHose provided color pictures from the MLS listing to document the condominium's interior condition at the time of sale. McHose testified she spent approximately \$20,000 to complete repairs, upgrade the electrical, and replace the kitchen.

McHose referenced the definition of market value in Iowa Code section 441.21 as "the fair and reasonable exchange in the year in which the property is listed and valued between a willing buyer and willing seller." Further, she references the 1971 Iowa Supreme Court case of *Juhl v. Greene County*

*Board of Review* for the premise that the sale price of the property is persuasive evidence of its fair market value. 188 N.W.2d 351, 353 (Iowa 1971). In her opinion, the purchase price of the subject property, based on these legal concepts, is the most appropriate indication of its fair market value. She believes the cost approach used for assessment purposes, should only be used in the absence of comparable sales.

Jim Willett, Deputy Polk County Assessor, testified on behalf of the Board of Review. Willett noted that the MLS listing states the “unit is in very good condition throughout.” According to Willett, ten condominiums sold in the subject building between 2011 and early January 2013 in addition to the subject. Three of the properties had 1132 square feet of living area like the subject, and had the same age, condition, and grade. Sale prices ranged from \$103,000 to \$106,000, with a median of \$104,000, or \$90.99 per square foot to \$93.64 per square foot, with a median of \$91.87 per square foot. He testified the Board of Review used the lower end of the range in reducing McHose’s assessment to \$103,000. Willett testified that although the dated carpet could affect a property’s market value, he considered the kitchen obsolescence was consistent with the property’s age. The sale prices used by the Board of Review were adjusted and all the sales were comparable to the subject in age, size, style, location, and grade. We are unable to determine if any of the properties had been remodeled at the time of sale which may have positively impacted their purchase prices.

McHose correctly indicates the Iowa Code’s preference for using the sale price of the subject and of comparable properties in determining market value. § 441.21(1)(b). This Board considers McHose’s purchase price together with the sale prices of three comparable sales in the same building. Reviewing all the evidence, we find the preponderance of the evidence fails to support McHose’s claim of over-assessment. While the arm’s-length sale price of the subject property may suggest over-assessment, three recent sales of comparable condominiums indicate higher values are common in the market.

### *Conclusions of Law*

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

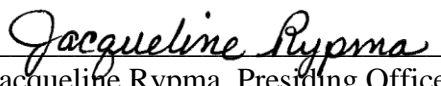
In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2). The property's assessed value shall be one hundred percent of its actual value. § 441.21(1)(a).


In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995).


It is clear from the wording of section 441.21(1)(b) that a sales price for the subject property in a normal transaction just as a sales price of comparable property is a matter to be considered in arriving at market value but does not *conclusively* establish that value. *Riley v. Iowa City Bd. of Review*, 549 N.W.2d 289, 290 (Iowa 1996). As suggested in *Juhl*, the subject's sale price may be persuasive evidence. *Juhl*, 188 N.W.2d at 353. However, the taxpayer in *Juhl* did not rely solely on the sale price, but also provided the testimony of two disinterested witnesses who testified as to the property's fair market value and which the court found shifted the burden of proof to the Board of Review. *Id.* We find McHose's purchase was a normal transaction; however, three other recent sales of comparable properties suggest her purchase price may not have been reflective of its fair market value. Viewing the evidence as a whole, we determine the preponderance of the evidence does not support McHose's claim of over-assessment.

The Appeal Board orders the subject property's assessment of \$103,000, as determined by the Polk County Board of Review, as of January 1, 2013, is affirmed.

Dated this 7th day of January, 2014.

  
Jacqueline Rypma, Presiding Officer

  
Stewart Iverson, Board Chair

  
Karen Oberman, Board Member

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